

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1339 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

SMT. SHARDABEN C. SHAH WIDOW OF LATE C.M.SHAH

Versus

STATE OF GUJARAT

Appearance:

MR PH PATHAK for Petitioner

MR MUKESH PATEL for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 29/10/1999

ORAL JUDGEMENT

#. The petitioner, since deceased, retired from the services of the respondents on attaining the age of superannuation on 30th September 1986. On the date of his retirement, departmental inquiry was pending against him and as a result thereof, he was given provisional pension on 8th October 1986. Thereafter, in this departmental inquiry, the respondents have not proceeded further and ultimately all the retirementary benefits

were given to the deceased petitioner on 25th April 1988. This has been done after filing of the special civil application, though, immediately after filing thereof. This special civil application has been filed before this court on 15th March 1986 and notice was issued on 17th March 1988, returnable on 28th March, 1988. On 31st March, 1988, this court ordered:

Rule. By way of interim relief, respondents are directed to compute the pension and other terminal benefits payable to the petitioner latest before June 30, 1988. The computation that may be made will be placed on the record of this court on or before July 4, 1988.

S.O. to 4th July, 1988.

As said earlier, the respondents have paid all these benefits to the petitioner on 25th April, 1988. The petitioner has been paid Rs.58,000/= and odd towards computation of pension and Rs.46,000/= and odd towards gratuity.

#. The learned counsel for the petitioner admits that all the retirementary benefits have been paid to the petitioner and further he is only praying for grant of interest to the petitioner on the aforesaid two heads from the due date till the date of payment.

#. Though this writ petition has been admitted after notice to the respondents on 31st March 1988 and though more than eleven years and seven months have passed, none of the respondents have cared to file reply to the special civil application. Further, orally also, the learned counsel for the petitioner is unable to satisfy this Court as to how in this matter any delay on the part of the petitioner can be attributed for disbursement of retirementary benefits to him. The petitioner was not given retirementary benefits only on the ground that departmental inquiry was pending against him, but in this departmental inquiry the respondents have not proceeded and this ground made is wholly arbitrary and perverse. In case departmental inquiry was pending, it should have been completed before retirement of the petitioner or if it is really a serious matter, then within reasonable time after his retirement, but in this case, on this departmental inquiry, the respondents have not proceeded and the delay in finalization of pension and other retirementary benefits of the petitioner is made by respondents and for the loss of interest which deceased petitioner has suffered, he has to be compensated. This

matter is squarely covered by decision of the apex Court in the case of Dr.Uma Agarwal v. State of U.P. & Ors. reported in 1992(2) SCALE 153.

#. Otherwise also, the Government, by Resolution, provides for a time bound programme for sanction of pension, etc. of retired employees. It is unfortunate that the Government and its officers themselves are not following their own instructions. It is a clear case of departmental delay and which is not excusable. No objection certificate could not be given to the petitioner because of pendency of departmental inquiry which is not proceeded with by respondents.

#. In the result, this special civil application succeeds and the same is allowed and the respondents are directed to pay the petitioner, interest on the amount of computation of pension and gratuity at the rate of 12% from 1st November 1986 till the date of payment thereof. This amount of interest payable to the petitioner be calculated within a period of one month from the date of receipt of writ of this order and the same be paid to the petitioner within one month next. In case this order is not complied with and any delay is made in calculation of payment of amount of interest payable to the petitioner beyond the period granted by this court aforesaid, the petitioner shall be entitled for interest on this amount at the rate of 18% p.a. from today. Compliance of this order has to be reported by respondents to this Court. Rule is made absolute in aforesaid terms. The petitioner, since deceased, a retired employee, has unnecessarily been harassed by none other than a Welfare State and its officers and he has to incur heavy expenses towards this litigation. He paid, as what Mr.Pathak states to have received from him, towards the charges for rendering professional services, an amount of Rs.3,000/=. The respondent - State of Gujarat is further directed to pay Rs.3,000/= as costs of this writ petition to the petitioner.

.....

[sunil]